

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO DIVERSIFIED)
OPERATIONS OF LOCAL EXCHANGE) ADMINISTRATIVE
TELEPHONE COMPANIES) CASE NO. 340

O R D E R

This matter arising upon petition of Cincinnati Bell Telephone Company ("Cincinnati Bell") filed February 7, 1992 pursuant to 807 KAR 5:001, Section 7, for confidential protection of its responses to Items 1, 2, 3, 8, and 15 of the Commission's Order of October 25, 1991 on the grounds that disclosure of the information is likely to cause Cincinnati Bell competitive injury, and it appearing to this Commission as follows:

On October 25, 1991, the Commission directed the parties to this proceeding to respond to 15 separate data requests. After filing the information, Cincinnati Bell petitioned to protect as confidential the information contained in its responses to Items 1, 2, 3, 8, and 15 on the grounds that disclosure of the information is likely to cause it competitive injury.

KRS 61.872(1) requires information filed with the Commission to be available for public inspection unless specifically exempted by statute. Exemptions from this requirement are provided in KRS 61.878(1). That section of the statute exempts 10 categories of information. One such category exempted in subparagraph (b) of that section is commercial information confidentially disclosed to

the Commission. To qualify for the exemption, it must be established that disclosure of the information is likely to cause substantial competitive injury to the party from whom the information was obtained. To satisfy this test, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

The information sought to be protected in response to Item 1 describes the contractual relationships which Cincinnati Bell has with other companies involved in various aspects of its cellular operations and how those relationships were formed and have evolved. The response also provides the total investment Cincinnati Bell made in the partnership formed to operate the system. Cincinnati Bell maintains that disclosure of this information would provide competitors with a business plan that they could copy in formulating their own operations. The information, however, provides only a broad general outline of the contractual arrangements and the development plan which Cincinnati Bell seeks to protect and would not be of substantial competitive value. Therefore, the petition to protect this information should be denied.

The information furnished in response to Item 2 provides the total expenses incurred by Cincinnati Bell to establish cellular service and the value of the property Cincinnati Bell contributed for that purpose, as well as the total amount it was later reimbursed. Like the information provided in response to Item 1,

this information is too general to be of competitive value and should not be protected from public disclosure.

The information filed in response to Item 3 identifies one of the businesses with whom Cincinnati Bell has a contractual relationship. The response contains no additional information concerning this relationship to that provided in response to Item 1 and is therefore too general to be of substantial competitive value and is not entitled to protection.

Cincinnati Bell's response to Item 8 identifies those of its operations which it considers in competition with its cellular operations and states whether they function as divisions of Cincinnati Bell or as separate subsidiaries. The services provided by these operations are offered to the general public so that this information is readily available from other sources. Therefore, the information is not confidential and not entitled to protection from disclosure.

The information filed in response to Item 15 identifies which member of the general partnership formed to provide the cellular service is responsible for managing its financial affairs. This information would have no financial value and is not entitled to protection.

This Commission being otherwise sufficiently advised,

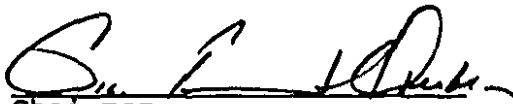
IT IS ORDERED that:

1. The petition to protect as confidential Cincinnati Bell's responses to Items 1, 2, 3, 8, and 15 of the Commission's Order of October 25, 1991 be and is hereby denied.

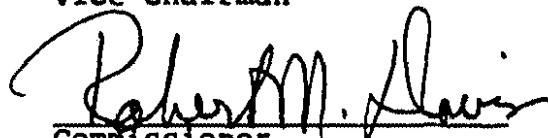
2. The information sought to be protected shall be held and retained by this Commission as confidential and shall not be open for public inspection for a period of 20 days from the date of this Order, at the expiration of which it shall be placed, without further Orders herein, in the public record.

Done at Frankfort, Kentucky, this 13th day of March, 1992.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director